

[DISCUSSION DRAFT]

APRIL 30, 2002

107TH CONGRESS
2D SESSION**H. R.** _____

IN THE HOUSE OF REPRESENTATIVES

Mr. BOEHLERT (for himself and Mr. WEINER) introduced the following bill;
which was referred to the Committee on _____

A BILL

To provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Construction
5 Safety Team Act”.

1 **SEC. 2. NATIONAL CONSTRUCTION SAFETY TEAMS.**

2 (a) ESTABLISHMENT.—The Director of the National
3 Institute of Standards and Technology (in this Act re-
4 ferred to as the “Director”) is authorized to establish Na-
5 tional Construction Safety Teams for deployment within
6 48 hours after events causing the failure of a building or
7 buildings that has resulted in substantial loss of life or
8 that posed significant potential for substantial loss of life.
9 The Director shall promptly publish in the Federal Reg-
10 ister notice of the establishment of each National Con-
11 struction Safety Team.

12 (b) PROCEDURES.—

13 (1) DEVELOPMENT.—Not later than 3 months
14 after the date of the enactment of this Act, the Di-
15 rector, in consultation with the United States Fire
16 Administration and other appropriate Federal agen-
17 cies, shall develop procedures for the establishment
18 and deployment of National Construction Safety
19 Teams. The Director shall update such procedures
20 as appropriate. Such procedures shall include
21 provisions—

22 (A) regarding conflicts of interest related
23 to service on the Team;

24 (B) defining the circumstances under
25 which the Director will establish and deploy a
26 National Construction Safety Team;

1 (C) prescribing the appropriate size of Na-
2 tional Construction Safety Teams;

3 (D) guiding the disclosure of information
4 under section 8;

5 (E) guiding the conduct of investigations
6 under this Act;

7 (F) identifying, and prescribing appro-
8 priate conditions for the provision by the Direc-
9 tor of, additional resources and services Na-
10 tional Construction Safety Teams may need;

11 (G) to ensure that investigations under
12 this Act do not impede and are coordinated
13 with any search and rescue efforts being under-
14 taken at the site of the building failure;

15 (H) for regular briefings of the public on
16 the status of the investigative proceeding and
17 findings;

18 (I) guiding the National Construction
19 Safety Teams in moving and the preservation of
20 evidence as described in section 5(a)(4), (b)(2),
21 and (d)(4);

22 (J) providing for coordination with Fed-
23 eral, State, and local entities that may sponsor
24 research or investigations of building failures;
25 and

1 (K) regarding such other issues as the Di-
2 rector considers appropriate.

3 (2) PUBLICATION.—The Director shall publish
4 promptly in the Federal Register final procedures,
5 and subsequent updates thereof, developed under
6 paragraph (1).

7 **SEC. 3. COMPOSITION OF TEAMS.**

8 National Construction Safety Teams shall be led by
9 an individual named by the Director. National Construc-
10 tion Safety Team members shall include at least 1 em-
11 ployee of the National Institute of Standards and Tech-
12 nology and may include private sector experts, university
13 experts, representatives of professional organizations with
14 appropriate expertise, and appropriate Federal, State, or
15 local officials.

16 **SEC. 4. FUNCTIONS OF TEAMS.**

17 National Construction Safety Teams shall—

18 (1) conduct investigations to establish the likely
19 technical cause or causes of the building failure;

20 (2) evaluate the technical aspects of evacuation
21 and emergency response procedures;

22 (3) recommend specific improvements to build-
23 ing standards, codes, and practices based on the
24 findings made pursuant to paragraphs (1) and (2);
25 and

1 (4) recommend research and other appropriate
2 actions needed to improve the structural safety of
3 buildings, and improve evacuation and emergency re-
4 sponse procedures, based on the findings of the in-
5 vestigation.

6 **SEC. 5. AUTHORITIES.**

7 (a) ENTRY AND INSPECTION.—In investigating a
8 building failure under this Act, members of a National
9 Construction Safety Team, and any other person author-
10 ized by the Director to support a National Construction
11 Safety Team, on display of appropriate credentials pro-
12 vided by the Director, may—

13 (1) enter property where a building failure
14 being investigated has occurred, or where building
15 components, materials, and artifacts with respect to
16 the building failure are located, and do anything
17 necessary to conduct the investigation;

18 (2) inspect any record (including any design,
19 construction, or maintenance record), process, or fa-
20 cility related to the investigation;

21 (3) inspect and test any building components,
22 materials, and artifacts related to the building fail-
23 ure; and

1 (4) move such components, materials, and arti-
2 facts as provided by the procedures developed under
3 section 2(b)(1).

4 (b) AVOIDING UNNECESSARY INTERFERENCE AND
5 PRESERVING EVIDENCE.—An inspection, test, or other
6 action taken by a National Construction Safety Team
7 under this section shall be conducted in a way that—

8 (1) does not interfere unnecessarily with serv-
9 ices provided by the owner or operator of the build-
10 ing components, materials, or artifacts, property,
11 records, process, or facility; and

12 (2) to the maximum extent feasible, preserves
13 evidence related to the building failure, consistent
14 with the ongoing needs of the investigation.

15 (c) COORDINATION WITH SEARCH AND RESCUE EF-
16 FORTS.—A National Construction Safety Team shall not
17 impede, and shall coordinate its investigation with, any
18 search and rescue efforts being undertaken at the site of
19 the building failure.

20 (d) INTERAGENCY PRIORITIES.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2) or (3), a National Construction Safety
23 Team investigation shall have priority over any other
24 investigation of any other Federal agency. The Na-
25 tional Institute of Standards and Technology shall

1 enter into a memorandum of understanding with
2 each Federal agency that may conduct a related in-
3 vestigation, establishing priorities and providing for
4 coordination of the investigations.

5 (2) NATIONAL TRANSPORTATION SAFETY
6 BOARD.—If the National Transportation Safety
7 Board is conducting an investigation related to an
8 investigation of a National Construction Safety
9 Team, the National Transportation Safety Board in-
10 vestigation shall have priority over the National Con-
11 struction Safety Team investigation.

12 (3) CRIMINAL ACTS.—If the Attorney General,
13 in consultation with the Director, determines, and
14 notifies the Director, that circumstances reasonably
15 indicate that the building failure being investigated
16 by a National Construction Safety Team may have
17 been caused by a criminal act with intent to cause
18 the building failure, the National Construction Safe-
19 ty Team shall relinquish investigative priority to the
20 appropriate Federal law enforcement agency. The
21 relinquishment of investigative priority by the Na-
22 tional Construction Safety Team shall not otherwise
23 affect the authority of the Team to continue its in-
24 vestigation under this Act.

1 (4) PRESERVATION OF EVIDENCE.—If a Fed-
2 eral law enforcement agency suspects and notifies
3 the Director that a building failure being inves-
4 tigated by a National Construction Safety Team
5 under this Act may have been caused by a criminal
6 act with intent to cause the building failure, the Na-
7 tional Construction Safety Team, in consultation
8 with the Federal law enforcement agency, shall take
9 necessary actions to ensure that evidence of the
10 criminal act is preserved.

11 **SEC. 6. BRIEFINGS, HEARINGS, WITNESSES, AND SUB-**
12 **POENAS.**

13 (a) GENERAL AUTHORITY.—The Director, on behalf
14 of a National Construction Safety Team, may conduct
15 hearings, administer oaths, and require, by subpoena and
16 otherwise, necessary witnesses and evidence as necessary
17 to carry out this Act.

18 (b) BRIEFINGS.—National Construction Safety
19 Teams shall hold regular public briefings on the status
20 of the investigative proceeding and findings.

21 (c) PUBLIC HEARINGS.—During the course of an in-
22 vestigation by a National Construction Safety Team, the
23 National Institute of Standards and Technology shall, if
24 the Director considers it to be in the public interest, hold
25 a public hearing for the purposes of—

1 (1) gathering testimony from witnesses; and
2 (2) informing the public on the progress of the
3 investigation.

4 (d) PRODUCTION OF WITNESSES.—A witness or evi-
5 dence in an investigation under this Act may be sum-
6 moned or required to be produced from any place in the
7 United States. A witness summoned under this subsection
8 is entitled to the same fee and mileage the witness would
9 have been paid in a court of the United States.

10 (e) ISSUANCE OF SUBPOENAS.—A subpoena shall be
11 issued under the signature of the Director but may be
12 served by any person designated by the Director.

13 (f) FAILURE TO OBEY SUBPOENA.—If a person dis-
14 obeys a subpoena, order, or inspection notice issued by the
15 Director or a National Construction Safety Team under
16 this Act, the Director may bring a civil action in a district
17 court of the United States to enforce the subpoena, order,
18 or notice. An action under this subsection may be brought
19 in the judicial district in which the person against whom
20 the action is brought resides, is found, or does business.
21 The court may punish a failure to obey an order of the
22 court to comply with the subpoena, order, or notice as a
23 contempt of court.

1 **SEC. 7. ADDITIONAL POWERS.**

2 In order to support National Construction Safety
3 Teams in carrying out this Act, the Director may—

4 (1) procure the temporary or intermittent serv-
5 ices of experts or consultants under section 3109 of
6 title 5, United States Code;

7 (2) request the use, when appropriate, of avail-
8 able services, equipment, personnel, and facilities of
9 a department, agency, or instrumentality of the
10 United States Government on a reimbursable or
11 other basis;

12 (3) confer with employees and request the use
13 of services, records, and facilities of State and local
14 governmental authorities;

15 (4) accept voluntary and uncompensated serv-
16 ices; and

17 (5) make contracts with nonprofit entities to
18 carry out studies related to purpose, functions, and
19 authorities of the National Construction Safety
20 Teams.

21 **SEC. 8. DISCLOSURE OF INFORMATION.**

22 (a) GENERAL RULE.—Except as otherwise provided
23 in this section, a copy of a record, information, or inves-
24 tigation submitted or received by a National Construction
25 Safety Team shall be made available to the public on re-
26 quest and at reasonable cost.

1 (b) EXCEPTION.—Subsection (a) does not require the
2 release of information described by section 552(b) of title
3 5, United States Code, or protected from disclosure by any
4 other law of the United States.

5 (c) PROTECTION OF VOLUNTARY SUBMISSION OF IN-
6 FORMATION.—Notwithstanding any other provision of law,
7 a National Construction Safety Team, the National Insti-
8 tute of Standards and Technology, and any agency receiv-
9 ing information from a National Construction Safety
10 Team or the National Institute of Standards and Tech-
11 nology, shall not disclose voluntarily provided safety-re-
12 lated information if that information is not directly related
13 to the building failure being investigated and the Director
14 finds that the disclosure of the information would inhibit
15 the voluntary provision of that type of information.

16 (d) PUBLIC SAFETY INFORMATION.—A National
17 Construction Safety Team and the National Institute of
18 Standards and Technology shall not publicly release any
19 information it receives in the course of an investigation
20 under this Act if the Director finds that the disclosure
21 of that information might jeopardize public safety.

22 **SEC. 9. NATIONAL CONSTRUCTION SAFETY TEAM REPORT.**

23 Not later than 90 days after completing an investiga-
24 tion, a National Construction Safety Team shall issue a
25 public report which includes—

1 (1) an analysis of the likely technical cause or
2 causes of the building failure investigated;

3 (2) technical recommendations for changes to
4 or the establishment of evacuation and emergency
5 response procedures;

6 (3) recommended specific improvements to
7 building standards, codes, and practices; and

8 (4) recommendations for research and other ap-
9 propriate actions needed to help prevent future
10 building failures.

11 **SEC. 10. NATIONAL INSTITUTE OF STANDARDS AND TECH-**
12 **NOLOGY ACTIONS.**

13 After the issuance of a public report under section
14 9, the National Institute of Standards and Technology
15 shall comprehensively review the report and, working with
16 the United States Fire Administration and other appro-
17 priate Federal and non-Federal agencies and
18 organizations—

19 (1) conduct, or enable or encourage the con-
20 ducting of, appropriate research recommended by
21 the National Construction Safety Team; and

22 (2) ensure the appropriate adoption by the Fed-
23 eral Government, and encourage the appropriate
24 adoption by other agencies and organizations, of the

1 recommendations of the National Construction Safe-
2 ty Team with respect to—

3 (A) technical aspects of evacuation and
4 emergency response procedures;

5 (B) specific improvements to building
6 standards, codes, and practices; and

7 (C) other actions needed to help prevent
8 future building failures.

9 **SEC. 11. NATIONAL INSTITUTE OF STANDARDS AND TECH-**
10 **NOLOGY ANNUAL REPORT.**

11 Not later than February 15 of each year, the Director
12 shall transmit to the Committee on Science of the House
13 of Representatives and to the Committee on Commerce,
14 Science, and Transportation of the Senate a report that
15 includes—

16 (1) a summary of the investigations conducted
17 by National Construction Safety Teams during the
18 prior fiscal year;

19 (2) a summary of recommendations made by
20 the National Construction Safety Teams in reports
21 issued under section 9 during the prior fiscal year;
22 and

23 (3) a description of the actions taken by the
24 National Institute of Standards and Technology dur-

1 ing the prior fiscal year in response to reports issued
2 under section 9.

3 **SEC. 12. ADVISORY COMMITTEE.**

4 (a) ESTABLISHMENT AND FUNCTIONS.—The Direc-
5 tor, in consultation with the United States Fire Adminis-
6 tration and other appropriate Federal agencies, shall es-
7 tablish an advisory committee to advise the Director on
8 carrying out this Act and to review the procedures devel-
9 oped under section 2(b)(1) and the reports issued under
10 section 9.

11 (b) ANNUAL REPORT.—On January 1 of each year,
12 the advisory committee shall transmit to the Committee
13 on Science of the House of Representatives and to the
14 Committee on Commerce, Science, and Transportation of
15 the Senate a report that includes—

16 (1) an evaluation of National Construction
17 Safety Team activities, along with recommendations
18 to improve the operation and effectiveness of Na-
19 tional Construction Safety Teams; and

20 (2) an assessment of the implementation of the
21 recommendations of National Construction Safety
22 Teams and of the advisory committee.

23 (c) DURATION OF ADVISORY COMMITTEE.—Section
24 14 of the Federal Advisory Committee Act shall not apply
25 to the advisory committee established under this section.

1 **SEC. 13. ADDITIONAL APPLICABILITY.**

2 The authorities and restrictions applicable under this
3 Act to the Director and to National Construction Safety
4 Teams shall apply to the activities of the National Insti-
5 tute of Standards and Technology in response to the at-
6 tacks of September 11, 2001.

7 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated to the Na-
9 tional Institute of Standards and Technology for carrying
10 out this Act \$25,000,000 for each of the fiscal years 2003
11 through 2005, to remain available until expended.